APPENDIX A

Docket No. 23425-04.

United States Tax Court Washington, DC 20217
THOMAS DRENNAN SELGAS, Petitioner
v.
Commissioner of Internal Revenue, Respondent

DECISION

This case was tried on November 1, 2004, at the Court's trial session in Dallas, Texas. The Court's opinion, including oral findings of fact, is recorded in the transcript of the proceedings before Judge Mark V. Holmes at Dallas, Texas, on November 2, 2005. Following that opinion, it is

ORDERED that there is a deficiency in income tax, and an addition to tax, due from petitioner as follows:

Year	Deficiency	Additions to Tax Under Sec 6651(a)(1)
2002	$23,303	$592.20

/s/ Mark V. Holmes
Judge

ENTERED: NOV 23, 2005

APPENDIX B

Docket No. 23425-04.

United States Tax Court Washington, DC 20217

In the matter of:
THOMAS DRENNAN SELGAS, Petitioner
v.
Commissioner of Internal Revenue, Respondent

ORAL FINDINGS OF FACT AND OPINION

Room 591
Terminal Annex Building
207 S. Houston Street
Dallas, Texas

Wednesday,
November 2, 2005

The above-entitled matter came on for bench opinion, pursuant to notice, at 9:35 a.m.

BEFORE: HON. MARK V. HOLMES
Judge

APPEARANCES:
On behalf of the Petitioner:
NONE

On behalf of the Respondent:
AUDREY M. MORRIS, ESQ.
IRS District Counsel
4050 Alpha Road, 13th Floor
Dallas, Texas 75244

Bench Opinion by Judge Mark V. Holmes

The Court has decided to render oral findings of fact and opinion, and the following represents the Court's oral findings of fact and opinion:

This bench opinion is made pursuant to the authority granted by Section 7459(b) of the Internal Revenue Code of 1986 as amended and Rule 152 of the Tax Court's Rules of Practice and Procedure.

Mr. Selgas was a resident of Texas at the time he filed the petition. There were facts stipulated which are found.

BACKGROUND

This case began because the IRS noticed that it had no record of Mr. Selgas filing a federal income tax return for the tax year 2002. During that year, Mr. Selgas had worked for a company called Chip Data, Incorporated, and during that year Chip Data had issued Mr. Selgas wages in the amount of $104,278 that it reported to him on the annual Form W-2 for that year. It also withheld from his wages federal income tax in the amount of $21,314.62.

Mr. Selgas and the Government stipulated that during 2002, he also received $50 in interest income from the Community Credit Union, $11 in dividends from Deutsche Bank Securities, Incorporated, and had withheld from interest at the Community Credit Union $15 for federal income taxes.

On July 19, 2004, after noticing that no return had come from Mr. Selgas, the Commissioner sent to him a letter, accompanying a Form 4549, Income Tax Examination Changes, associated schedules of computations and a Form 886-A, Explanation of Items. It stated in boldface on the letter accompanying these forms, "We have not received your federal income tax return, and we need you to file your return." The package was signed by an IRS employee.

Moreover, although this is a contested fact, I specifically find that attached to this combination of letter and Forms 4549 and 886-A was another IRS form

entitled, IRC Section 6020b Certification on IRS Form 13496 that was signed by an IRS employee. I make this finding because the IRS established that it was in keeping with its practice of preparing SFRs when the taxpayer has not filed.

Moreover, it was found in the administrative file attached as well to the notice of deficiency that was later issued. However, in this letter, it does state, "The officer of the IRS identified below, authorized by delegation order 182, certifies the attached pages constitute a valid return under Section 6020b. This return consists of the following items: (1) a copy of the Form 1040 which the IRS used to establish the taxpayer's account on its computer system, or alternatively a transcript of account reflecting the entry of data used to establish the taxpayer's account on the IRS computer system;

"(2) Form 4549, Income Tax Examination Changes; (3) Form 866-A, Explanation of Items; and (4) this certification Form 13496. Pursuant to Section 6651(g)(2), this certification with attachments shall be treated as the return filed by the taxpayer for purposes of determining the amount of the additions to tax under paragraphs 2 and 3 of Section 6651(a)."

I do note -- and there's little dispute -- that there was no Form 1040 attached to this package, and there also appears to have been no transcript of account. But the letter itself was found both in the administrative file and, as I said, attached to this July 19 letter, as well as the September 14 notice of deficiency, so I do find that it was sent and that it was sent as part of this package.

As it turns out, it's not all that important that a substitute for return prepared under 6020b was filed at all, but I'll get to that a little bit later.

On September 14, 2004, the IRS sent a notice of deficiency, proposing a deficiency of $23,303, together with an addition to tax for failure to file of $592.20. The discerning listener will hear that this is considerably less than 25 percent of the deficiency amount of more than

$23,000. This is because under Section 6651(b), the penalty is only assessed on the net amount due after taking into account, among other things, the withholding credit that Chip Data, Mr. Selgas's employer, had already withheld from his wage income.

Attached to this notice of deficiency was another copy of the July 19 forms, including, I specifically find, the 6020b certification. Mr. Selgas's reaction to this was to timely file a petition for redetermination of the deficiency.

In his petition, he challenged the notice of deficiency on several grounds: first, alleging that the tax had been fully paid; second, that it was based on a naked assessment with a lack of valid supporting evidentiary documents necessary and required to "verify and support transaction codes, document codes, and blocking codes listed in the individual master file";

Third, that the administrative record was tampered with and that the IRS's computer systems had severe programming bugs; four, that the IRS computer data entry control notices to administer Petitioner's administrative file were nonexistent or missing; fifth, that the Petitioner was not engaged in excisable activities; sixth, that he wasn't involved in self-employment activities; and perhaps most remarkably, seventh, that he is not nor was gainfully employed despite the receipt of over $100,000 in wage income from his employer during the year in question.

Now, several of these grounds are obviously frivolous. Transaction codes have nothing to do with the calculation or challenge to the deficiency amount. Mr. Selgas elaborated in a lengthy reply to the Government's answer in this case with even more grounds for challenging the deficiency, saying that the alleged notice of deficiency is incomplete and unsigned, not signed by somebody with delegated authority; that the Commissioner had failed to identify a particular taxing statute in implementing regulation from which a

deficiency could arise; that the Commissioner had failed to create a valid substitute for return.

Again, many of these are staples of tax protester practice. Others are apparently of Mr. Selgas's own invention, but few if any of them have anything to do with a challenge to the deficiency as calculated by the Commissioner.

In the course of trial preparation, Mr. Selgas did not cooperate with the Government in drafting stipulations, instead coming up with a purported amended return, arguments based on non-delegation of the Secretary's power, and similar nonsubstantive reasons to oppose the deficiency.

After his summary judgment motion was denied shortly after the calendar call, however, a conversion seems to have occurred, and he began to cooperate with the stipulation process, ultimately signing a stipulation in the regular form.

It was a more focused attack on the deficiency, raising three grounds: still, that he had fully paid the tax amount due; second, a new argument that he had sent in not one but two returns before the substitute for return had been issued by the Commissioner; and, three, that the substitute for return that had been prepared by the Commissioner was invalid. Trial was held in Dallas.

DISCUSSION

Point number one, Mr. Selgas's argument that he had fully paid his tax. The records of the IRS do reflect withholding, so Mr. Selgas, in effect, does get the benefit of the withholding from his wages by Chip Data and from the smaller withholding of interest payment from his credit union, and the IRS is, of course, obliged, as its counsel recognizes, to credit these in due course after the deficiency is determined.

But Mr. Selgas did not proffer any proof that he had paid the remainder of the amount that was owed. He had no checks, no money order receipts, no receipts for cash payments to the IRS. Instead, he pointed to his

individual master file transcript which showed zero assessment. But, of course, it would show zero assessment. That's what it should show when a non-filer timely petitions for a redetermination after reviewing and receiving his notice of deficiency based on a substitute for return, which is precisely what Mr. Selgas did here.

My conclusion then, on this first point, is that his tax was not, in fact, fully paid.

His second attack on the deficiency is that he really, really did send in returns, not once but twice. These were attached to the stipulation of facts as Exhibits 1-P and 2-P. These are different returns. They differ a bit in the amount that was owed. They differ in the preparer who signed allegedly at the bottom of page 2 of each of the returns. Neither of these purported returns is signed or dated by either Mr. or Mrs. Selgas.

Were these returns, in fact, filed? There are at least three reasons that I find that they were not. First, Mr. Selgas never mentioned these before. Having been sent IRS forms that say he did not receive -- that they had not received any income tax return for the year 2002 and having participated in very lengthy pretrial maneuvering, to come up only on the Monday of the calendar call with additional returns allegedly filed is quite beyond belief.

Second, and perhaps more importantly, neither one was ever received by the IRS. This means they're not regarded as filed under Section 7501. Mr. Selgas presented no proof of mailing by certified or registered mail or the other ways he could establish that a return should be regarded as filed by the IRS.

Third, there's no signature on either of these returns, as I've already said. Section 6061 generally requires a signature on a return form for that return form to become a legal return. Now, Mr. Selgas explained that he did execute a power of attorney, and, in fact, in some circumstances, someone receiving a power of attorney can execute a return for a non-signer.

Regulation 1.6061-1(a) states, "Each individual shall sign the income tax return required to be made by him, except that the return may be signed for the taxpayer by" -- and this is important -- "an agent who is duly authorized in accordance with paragraph (a)(5) or (b) of Section 1.6012-1 to make such return."

Turning to that section of the regulations, we see that in regulation 1.6012-1(a)(5), titled, Returns made by agent, that "the return of income may be made by an agent if, by reason of disease or injury, the person liable for the making of the return is unable to make it. The return may also be made by an agent if the taxpayer is unable to make the return by reason of continuous absence from the United States, including Puerto Rico, as if it were a part of the United States, for a period of at least 60 days prior to the date prescribed by law for making the return.

"In addition, a return may be made by an agent if the taxpayer requests permission in writing of the district director for the Internal Revenue district in which is located the legal residence or principal place of business of the person liable for the making of the return and such district director determines that good cause exists for permitting the return to be so made...

"Whenever a return is made by an agent, it must be accompanied by a power of attorney or copy thereof, authorizing him to represent his principal in making, executing or filing the return. A Form 2848, when properly completed, is sufficient."

Needless to say, Mr. Selgas presented no proof that he was diseased or injured and so unable to file a return, nor that he was outside the United States. Instead, he argued that he had a power of attorney, though no proof that he had secured consent from the Service to file with a signature from a power of attorney, because he had given the power of attorney, he said, to an IRS employee. He presented no proof of this, no copy of a power of attorney form.

And, of course, a Form 2848 as well as general principles of common law don't allow you to designate an agent without that agent's consent, and there certainly was no proof of consent that this particular IRS employee, whose name Mr. Selgas even had trouble remembering, had ever consented to be Mr. Selgas's agent for the purpose of signing either of his two returns.

Finally and more generally, I observed Mr. Selgas. I don't find him to be credible in the least on any important part of his testimony and specifically on this return story. I simply find him to have lied.

Part three of his attack was on the invalidity of the substitute for return. His argument here is that the requirements for a substitute for return were not met. There are two points that I want to make here. One was that I do find that the substitute for return here was valid.

Section 6020b of the Code states, "If any person fails to make any return required by any Internal Revenue law or regulation made thereunder at the time prescribed therefor, or makes willfully or otherwise a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise." The second subpart says, "Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes."

Mr. Selgas's argument is that because there was no Form 1040 prepared by the Commissioner and no regulation authorizing the Commissioner's activities promulgated under 6020, that there can be no substitute for return in his case. But, of course, the authority for the Commissioner's actions were in the Code, not the regulation, and there is certainly nothing in Section 6020b that requires a 1040 specifically.

The requirements for a valid substitute for return have been the subject of some commentary in the case law, and one of the leading cases in the Tax Court is

Cabirac v. Commissioner, which is 120 TC 163 (2003), which contains a brief discussion of the requirements and the development of those requirements of a valid SFR or substitute for return.

Specifically I'll give a quote from Cabirac which cites, in turn, to a previous case, Milsap v. Commissioner. "In Milsap v. Commissioner, 91 TC 926, the Respondent prepared Forms 1040 containing the taxpayer's name, address, Social Security number and filing status. The Forms 1040 contained no information regarding income or tax and were not subscribed. However, attached to the Forms 1040 was previously-prepared revenue agent's report which contained sufficient information from which to compute the taxpayer's tax liability and was subscribed. We held that the 1040, together with the attached revenue agent's report, met the requirements for a Section 6020b return."

Now, in Cabirac, the revenue agent's report which contained the information from which the taxpayer could calculate his taxes was not attached, and so in Cabirac, the purported substitute for return was held not to be valid. But from this line of cases, I derive the following three things that have to be in a substitute for return for it to be considered a valid substitute for return under Section 6020b: one, that the taxpayer has to be identified; two, that there has to be an explanation of the basis for the computation of the deficiency; and, three, that it has to be signed by an IRS employee with appropriate authority.

Each of those three elements are met here. In Exhibit 6-R and 7-R which, again, I have found was attached to 6-R originally, are Mr. Selgas's name, Social Security number, accurate mailing address and such, and a long explanation of the basis of computation based on the third-party information that the IRS had, and the last page, which was, in fact, signed by an IRS employee.

The second reason that I find Mr. Selgas's argument to be an inadequate attack on the notice of

deficiency is that here I don't think a substitute for return even matters. The Commissioner can issue a notice of deficiency without a substitute for return, and the Commissioner can even assert the addition to tax that he asserts here under Section 6651(a)(1), the addition to tax for failure to file, without a substitute for return. It's Section 6651(a)(2), the failure to pay tax owed as shown on a return, that can be a problem if there isn't a valid substitute for return, but that's not the situation here.

So my conclusion is that I find for Respondent as to the following deficiency and addition to tax: for the tax year 2002, $23,303, with an addition to tax under Section 6651(a)(1) of $592.20.

This concludes the Court's oral findings of fact and opinion in this case.

(Whereupon, at 9:57 a.m., the bench opinion in the above-entitled matter was concluded.) Certificate of Transcriber and Proofreader

ON THE RECORD REPORTING, INC.

Case Docket No. 23425-04

Case Name Thomas Drennan Selgas

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through , inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Barbara Wall on November 2, 2005, before the United States Tax Court at its session in Dallas, Texas, in accordance with the applicable provisions of the current verbatim reporting contract of the Court, and have verified the accuracy of the transcript by comparing the typewritten transcript against the verbal recording.

	Anita Tyler	11/03/05
(Signature Transcriber)	(Transcriber Name)	(Date)
	Laurel H. Stoddard	11/04/05
(Signature Proofreader)	(Proofreader Name)	(Date)

APPENDIX C

Docket No. 23425-04.

United States Tax Court Washington, DC 20217

In the matter of:
THOMAS DRENNAN SELGAS, Petitioner
v.
Commissioner of Internal Revenue, Respondent

TELEPHONE CONFERENCE TRANSCRIPT

Telephone Conference between:
Judge Mark V. Holmes;
Abbey Garber, Assoc Counsel;
Thomas D. Selgas, Petitioner
John O'Neill Green, Counselor;
Tuesday,
August 9, 2005

The above-entitled matter came on for a conference call pursuant to notice, at 9:48 a.m.

BEFORE: HON. MARK V. HOLMES
Judge

APPEARANCES:
U:
THOMAS D. SELGAS, Petitioner, Attorney Pro Se
JOHN O'NEILL GREEN, ESQ., CO-COUNSEL

On behalf of the Respondent:
ABBEY B. Garber, ESQ.
Internal Revenue Service
4050 Alpha Road, 13th Floor
Dallas, Texas 75244

THE COURT: OK, what documents to you think you're missing from the record?

SELGAS: Um, well, the returns that according to everything I know, have been told, and then also according to, like, the individual master file and stuff that were filed by my former attorney, um, were not produced. Um, there was a thirty-day letter, um, I don't know what you call it, um, a thirty-day.

COURT: Yeah, they're called thirty-day letter (unintelligible). What's the full title, Notice of

SELGAS: Well there was a memorandum attached to it

COURT: Notice of Deficiency, or something like that

SELGAS: There was a memorandum attached to it that said it was illegal and what was produced yesterday, there's a hand note that says that that thirty-day letter that was send to me was illegal. And then, um, there was a letter that I saw the last time from, uh, a former attorney, Baxley, dated December 12, 2001, that's no longer there, but there was a letter from Revenue Agent McClain acknowledging receipt of that letter that we got a copy of yesterday.

COURT: Eh, do you, why don't you have copies of returns that were filed on your behalf in your own possession?

SELGAS: Um, they were never sent to me, Your Honor.

COURT: Did you try to retrieve them from the attorney who filed them on your behalf?

SELGAS: Um, yes Your Honor. And he said that the IRS took them when they came and, I guess, either raided their office, or whatever the term was. So he doesn't have them.

COURT: Eh (unintelligible)

SELGAS: Pardon?

COURT: What's the lawyer's first name, Milton?

SELGAS: Yes, sir.

COURT: (unintelligible), Mr. Garber?

GARBER: (unintelligible), Your Honor.

COURT: Do you know Mr. Baxley's whereabouts, sir?

GARBER: I do not, although he (unintelligible) more familiar with it than I am (unintelligible).

COURT: Has he been the subject of () injunction campaign by the Justice Department? Mutter, mutter. Have you found in the IRS records, Mr. Garber, uh, copies of the tax returns that were filed for the years in issue?

GARBER: Mutter, mutter

COURT: Which in this case is just 2002.

GARBER: I'm not aware of any returns ()

COURT: Are the returns that you say were filed in your behalf by Mr. Baxley, this is directed to Mr. Selgas, for the 2002 tax year?

SELGAS: Uh, there were returns for '97, '98, '99, 2000, 2001 and 2002, Your Honor.

COURT: Is there anything in the administrative record, Mr. Garber, that would indicate where these returns are?

GARBER: No, Your Honor, (unintelligible)

SELGAS: Your Honor, if you'll remember, in the last call Ms. Morris admitted that the returns had been filed when I objected that they weren't.

COURT: The question was whether they were process-able or not.

SELGAS: And I, and I, again since I don't have copies, I'd like to see what was filed.

APPENDIX D

No. 06-60311

United States Court of Appeals,
Fifth Circuit.

THOMAS DRENNAN SELGAS,
Petitioner - Appellant,
versus
COMMISSIONER OF INTERNAL REVENUE,
Respondent - Appellee.

Appeal from the United States Tax Court
NO. 23425-04

Before SMITH, WIENER, and OWEN, Circuit Judges.

JERRY E. SMITH, Circuit Judge:

Thomas Selgas received a notice of deficiency from the Internal Revenue Service ("IRS") and petitioned for redetermination of his tax liability. The United States Tax Court entered judgment against Selgas, and he appeals. We affirm.

I.

On July 19, 2004, the Commissioner of Internal Revenue ("the Commissioner") sent Selgas a letter stating that the IRS had not received a tax return from him for 2002. The Commissioner attached a form providing a proposed computation of Selgas's liability based on third-party payer information reflecting wages of $104,278, interest income of $50, and dividend income of $11. The form stated that Selgas was entitled to a standard deduction of $4,700 and a personal exemption of $3,000. The form included a computation showing that Selgas's tax deficiency was $23,303, against which he was entitled to prepayment withholding credits of $21,329, leaving a net

tax liability of $1,974. The form noted that in addition, Selgas owed $592.20 pursuant to 26 U.S.C. § 6651(a)(1) and (2) because he was late in filing his return and in paying the full amount due.

The Commissioner's letter informed Selgas that he could agree to the IRS's proposed examination changes and pay the amount due, respond within thirty days by filing a return, or explain why he had not filed a return and would like the IRS to reconsider. Attached to the letter was yet another form, which informed Selgas, "Your best course of action is to file your own tax return now to claim your credits and deductions as allowed by law."

Selgas made no response.[1] On September 14, 2004, the Commissioner sent him a "Notice of Deficiency" pursuant to 26 U.S.C. § 6212 reflecting a 2002 federal income tax deficiency of $23,303 and a delinquency penalty of $592.20. Attached to the notice were several forms reflecting the same computation and explanation as had appeared in the Commissioner's initial letter as well as a certification by an IRS Operations Manager that the documents attached to the notice of deficiency constituted the return prepared for Selgas by the Commissioner pursuant to 26 U.S.C. § 6020(b). The certification further stated that the return was to be treated as filed by the taxpayer for the purpose of determining the amount of the delinquency penalty. *See* 26 U.S.C. § 6651(a)(2)-(3), (g)(2).

Selgas timely filed a petition in the Tax Court attacking the Commissioner's calculations of the existence and amount of his deficiency on numerous grounds, all of

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[1] Selgas later claimed that he had filed two unsigned tax returns during this period. The IRS did not receive them, and the Tax Court did not find Selgas's testimony on this matter credible. For reasons explained below, even if these returns were filed, they were invalid because they lacked the taxpayer's signature.

which were rejected by the Tax Court. He timely filed a motion to vacate the judgment, which the Tax Court likewise rejected. Selgas asserts three arguments on appeal: (1) that the Tax Court lacked jurisdiction because the notice of deficiency was not promulgated pursuant to a valid delegation of authority; (2) that the decision should be vacated because Selgas was prejudiced by the clerk's failure to transcribe certain routine scheduling conferences involving the parties and the court; and (3) that the Commissioner's calculation was incorrect because Selgas filed documents illustrating that he was entitled to a refund.

II.

Whether the Tax Court had jurisdiction pursuant to a validly issued notice of deficiency is a matter of law that we review *de novo*. *See Portillo v. Comm'r*, 932 F.2d 1128, 1131-32 (5th Cir. 1991). The notice of deficiency sent to Selgas was valid, and the Tax Court appropriately exercised jurisdiction. The Tax Court acquires jurisdiction when a taxpayer files a timely petition contesting a notice of deficiency issued by the Commissioner. *See* 26 U.S.C. § 6213; *Portillo*, 932 F.2d at 1132.

Selgas claims that the court lacked jurisdiction because the notice sent to him was invalid for two reasons: (1) The employee who signed the deficiency notice lacked authority to do so; and (2) the IRS improperly failed to prepare a substitute tax return for Selgas before issuing the notice of deficiency. Selgas's arguments in this vein are irrelevant to the outcome. Citing a delegation order issued as part of the IRS's internal operating procedures, Selgas contends that the Supervisory Program Analyst who signed his deficiency notice lacked authority to act on behalf of the Secretary of the Treasury by issuing the deficiency. The Commissioner states that "Supervisory Program Analyst" is equivalent to Campus Department

Manager, an official who plainly enjoys delegated authority to issue deficiency notices.

As a general matter, IRS internal operating procedures confer no rights on individual taxpayers,[2] but we need not consider this dispute at great length because, in any event, no signature is required to render a deficiency notice valid.[3] A taxpayer is entitled to notice of a deficiency, but the relevant statute does not mandate any particular form of notice or specify any content it must include. *See* 26 U.S.C. § 6212. Like our sister circuits, we conclude that a notice of deficiency is valid as long as it informs a taxpayer that the IRS has determined that a deficiency exists and specifies the amount of the deficiency.[4] The existence of a signature or the identity of any IRS official who provides one, is superfluous.

Likewise, Selgas's argument that the notice of deficiency was invalid because the IRS failed to prepare a proper substitute tax return is meritless. We need not consider whether the substitute return was properly calculated and presented on the appropriate forms because, for the purpose of determining a deficiency, there is no need for the Commissioner to prepare a substitute tax return.[5] "Where there has been no tax return filed the deficiency is

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[2] *See Smith v. United States*, 478 F.2d 398, 400 (5th Cir. 1973); *see also Tavano v. Comm'r*, 986 F.2d 1389, 1390 (11th Cir. 1993).

[3] 3 *See Brafman v. United States*, 384 F.2d 863, 865 n.4 (5th Cir. 1967). *See also Tavano*, 986 F.2d at 1390; *Urban v. Comm'r*, 964 F.2d 888, 889 (1992).

[4] *See Bokum v. Comm'r*, 992 F.2d 1136, 1139 (11th Cir. 1993); *Estate of Yaeger v. Comm'r*, 889 F.2d 29, 35 (2d Cir. 1990).

[5] *See* 26 U.S.C. §§ 6020(b), 6211(a); *United States v. Stafford*, 983 F.2d 25, 27 (5th Cir. 1993) ("[A]lthough [§ 6020(b)] authorizes the Secretary to file for a taxpayer, the statute does not require such a filing.").

the amount of tax due."[6] Nothing about the notice of deficiency sent to Selgas operated to defeat the Tax Court's jurisdiction.

III.

Selgas was not prejudiced by the clerk's failure to record two off-the-record status conferences. Selgas was afforded a fair trial on the merits of the issues he claims were discussed at the status conferences. He was not prejudiced by the clerk's failure to record the Tax Court's "admission," during a status conference, that the IRS possessed two unsigned tax returns entitling Selgas to relief, even assuming that the Tax Court ever made such a statement. In any event, for reasons explained below, the fact that the tax returns were unsigned strips them of any legal effect and renders irrelevant the question whether the IRS ever had them.

IV.

Selgas's claim that the notice of deficiency is inaccurate because he filed two unsigned tax returns illustrating that he was entitled to a refund in 2002 is neither credible nor rele-vant. Selgas first produced these returns at the calendar call for trial of his case in the Tax Court, claiming that he had filed them before the IRS sent him the deficiency notice. The IRS had no record of ever receiving these returns. The trial judge specifically found Selgas's testimony to be incredible on this point and determined that the returns had never been filed. Selgas provides no reason for us to upset that plausible factual determination. Likewise, the Tax Court properly ignored the "corrected amended" return that Selgas filed just before trial, because he supplied no evidence substantiating the deductions and other items on the

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[6] *Laing v. United States*, 423 U.S. 161, 174 (1976). *See also* 26 C.F.R. § 301.6211-1(a).

return that purported to show that he was entitled to a substantial refund.

Even if the returns were filed, the fact that they were unsigned deprives them of legal effect.[7] Selgas claims that he provided power of attorney to the IRS employee who received the return, but, again assuming that this is true, there is no reason to believe that the employee was required to, or even should have, exercised such power and signed the return. That duty lay upon Selgas and, at best, he failed to fulfill it.

V.

Selgas's arguments are utterly lacking in merit and, as an aside, his conduct in this litigation appears to have been inconsistent with that of a litigant endeavoring to aid in the truthful and efficient resolution of contested issues of fact and law. We have no sympathy for Selgas's behavior or his arguments in defense of what appears to have been a brazen attempt to avoid a few thousand dollars in legitimate tax liability. The judgment of the Tax Court is AFFIRMED.

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[7] *See* 26 U.S.C. §§ 6012, 6061(a), 6065; 26 C.F.R. § 1.6061-1(a); *Brafman*, 384 F.2d at 868; *Reaves v. Comm'r*, 295 F.2d 336, 338 (5th Cir. 1961).

APPENDIX E

No. 06-60311

United States Court of Appeals,
Fifth Circuit.

THOMAS DRENNAN SELGAS,
Petitioner - Appellant,
versus
COMMISSIONER OF INTERNAL REVENUE,
Respondent - Appellee.

Petition for Review of an Order of the
Internal Revenue Service (Tax Ct)

ON PETITION FOR REHEARING

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED

ENTERED FOR THE COURT:

/S/ Jerry Smith
United States Circuit Judge

REHG-3

FILED: March 21, 2007
CHARLES R. FULBRIGE III
CLERK

CLERK'S NOTE
SEE FRAP AND LOCAL RULES 41 FOR STAY OF MADATE

APPENDIX F

INTERNAL REVENUE CODE SECTIONS: 6020, 6065, 6201, 6211, 6212, 7701(a)(11)-(12)

CHAPTER 61 - INFORMATION AND RETURNS

Subchapter A - Returns and Records

PART II - TAX RETURNS OR STATEMENTS

Subpart D - Miscellaneous Provisions

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§6020. Returns prepared for or executed by Secretary

(a) Preparation of return by Secretary

If any person shall fail to make a return required by this titleor by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary

(1) Authority of Secretary to execute return

If any person fails to make any return required by any internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns

Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

PART IV - SIGNING AND VERIFYING OF RETURNS AND OTHER DOCUMENTS

§6065. Verification of returns

Except as otherwise provided by the Secretary, any return, declaration, statement, or other document

required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

CHAPTER 63 - ASSESSMENT

Subchapter A - In General

****

§6201. Assessment authority

(a) Authority of Secretary

The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return

The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp

(A) Omitted stamps

Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid

In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits

If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(b) Amount not to be assessed

(1) Estimated income tax

No unpaid amount of estimated income tax required to be paid under section 6654 or 6655 shall be assessed.

(2) Federal unemployment tax

No unpaid amount of Federal unemployment tax for any calendar quarter or other period of a calendar year, computed as provided in section 6157, shall be assessed.

(c) Compensation of child

Any income tax under chapter 1 assessed against a child, to the extent attributable to amounts includible in the gross income of the child, and not of the parent, solely by reason of section73(a), shall, if not paid by the child, for all purposes be considered as having also been properly assessed against the parent.

(d) Required reasonable verification of information returns

In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return.

(e) Deficiency proceedings

For special rules applicable to deficiencies of income, estate, gift, and certain excise taxes, see subchapter B.

Subchapter B - Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

****

§6211. Definition of a deficiency

(a) In general

For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 41, 42, 43, and 44 the term "deficiency" means the amount by which the tax imposed by subtitle A or B, or chapter 41, 42, 43, or 44 exceeds the excess of -

(1) the sum of

(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

(B) the amounts previously assessed (or collected without assessment) as a deficiency, over -

(2) the amount of rebates, as defined in subsection (b)(2), made.

(b) Rules for application of subsection (a)

For purposes of this section -

(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, without regard to the credit under section 33, and without regard to any credits resulting from the collection of amounts assessed under section 6851 or 6852 (relating to termination assessments).

(2) The term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A or B or chapter 41, 42, 43, or 44 was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

(3) The computation by the Secretary, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

(4) For purposes of subsection (a) -

(A) any excess of the sum of the credits allowable under sections 24(d), 32, and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits), shall be taken into account as negative amounts of tax.

(c) Coordination with subchapters C and D

In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapters C and D.

§6212. Notice of deficiency

(a) In general

If the Secretary determines that there is a deficiency in respect of any tax imposed by subtitles A or B or chapter 41, 42, 43, or 44 he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail. Such notice shall include a notice to the taxpayer of the taxpayer's right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.

(b) Address for notice of deficiency

(1) Income and gift taxes and certain excise taxes

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, or chapter 44 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 41, chapter 42, chapter 43, chapter 44, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) Joint income tax return

In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary has been notified by either spouse that separate residences have been established, then, in lieu of the single joint notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

(3) Estate tax

In the absence of notice to the Secretary under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last

known address, shall be sufficient for purposes of chapter 11 and of this chapter.

(c) Further deficiency letters restricted

(1) General rule

If the Secretary has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), the Secretary shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar year, of estate tax in respect of the taxable estate of the same decedent, of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year, of section 4940 tax for the same taxable year, or of chapter 42 tax, (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court), in section 6213(b)(1) (relating to mathematical or clerical errors), in section 6851 or 6852 (relating to termination assessments), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) Cross references

For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of -

(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3).

(B) Deficiency attributable to gain on involuntary conversion, see section 1033(a)(2)(C) and (D).

(C) Deficiency attributable to activities not engaged in for profit, see section 183(e)(4). For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code.

(d) Authority to rescind notice of deficiency with taxpayer's consent The Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to

the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

Subtitle F - Procedure and Administration
CHAPTER 79 - DEFINITIONS
****

§7701. Definitions
(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -

(11) Secretary of the Treasury and Secretary

(A) Secretary of the Treasury

The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary

The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) Delegate

(A) In general

The term "or his delegate" -

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

APPENDIX G

Selected FOIA Responses from the
Secretary's Disclosure Office

RESPONSE: To request Petitioner's FOIA Request regarding Timothy A. Towns:

Dear Mr. Selgas:

This is in response to your Freedom of Information Act (FOIA) request dated September 18, 2004, received in our office September 27, 2004.

We have located seven (7) pages of documents in response to your request.

Responsive to Items 1, 5, 8, and 11, we have enclosed the Public Information Listing for Timothy A. Towns.

Regarding Items 2, 6, and 10, the Privacy Act protects information concerning Internal Revenue Service employees. Six items of information have been designated as public information as specified in 5 CFR 293.311. To release information, other than these items designated as public, we must have authorization from the employee. However, we consider the documents and/or information provided in our response to be responsive to your request for Item 2. You are not authorized to receive the information in Items 6 and 10.

The Public Information Listing will contain the following information:
1) Name; 2) Present and past position titles and occupational series; 3) Present and past grades; 4) present and past annual salary rates; 5) Present and past duty stations; and 6) Position descriptions, identification of job elements, and those performance standards (but not actual performance appraisals) that the release of which

would not interfere with law enforcement programs or severely inhibit agency effectiveness.

Responsive to Items 3 and 4, we have enclosed the Appointment Affidavits concerning Mr. Towns. IRS employees take an Oath of Office (appointment affidavit) upon entering the Service. No additional oaths are generally required.

Regarding Item 7, The Commissioner has delegated his authority to various officials in the Internal Revenue Service to administer the various programs of the Service. These delegations may be located in the Federal Register, the Cumulative Bulletin, and the Internal Revenue Manuals (IRM). IRM 1.2.2, Delegations of Authority, contains delegation orders that authorize IRS employees to do specific duties or activities and are generally issued by position or title, and not by employee's name. The Internal Revenue Manuals are available for public inspection in the Internal Revenue Service Public Access Centers and are, therefore, not subject to specific request. Delegation Orders are also available on the IRS website at http://www.irs.qov. Copies of the IRM may be requested by writing to the address shown below. We have, however, enclosed a copy of the position description,

MPD No. 93616.
Internal Revenue Service
FOI Public Access Center
Room 162111R
1111 Constitution Ave. N.W.
Washington, D.C. 20224

No responsive documents were found regarding Item 9.

If you have any questions regarding this correspondence, contact M McKenzie, #7917705121, at (801) 620-7650 between the hours of 7:OO a.m. and 3:30 p.m. Mountain

Time; or write to: Internal Revenue Service, Ogden Campus Disclosure Office, MIS 7000, PO Box 9941, Ogden, UT 84409. Please refer to case control number MM29-2004-06508.

Sincerely,

/s/ JaNean Ellis
JaNean Ellis
Disclosure Officer

Enclosure(s):
Notice 393

INTERNAL REVENUE SERVICE
MODERNIZATION POSITION DESCRIPTION
MPD No. 93616
Page 1

Classification:	GS-343-15
Classification Title:	Supervisory Program Analyst
Organizational Title:	Chief Planning and Analysis
Organizational Location:	Servicewide

Position Information

Competitive Level Code:	2485
Supervisory Code:	2 (Supervisory)
Bargaining Status:	8888 Non Bargaining Unit
Risk Level/ADP:	5N (Moderate Risk/Non-ADP)
FLSA Status:	Exempt
Full-Working Level:	GS-15
Career Ladder PDs:	None

Remarks:
Replaces TPD #98201T as this position is now a permanent position and is reflected on the blueprint. SM1 -This position is a Senior Manager (first level reporting to an executive)

Duties and Responsibilities Approved: 4/10/01
Barbara L. Kelly, Director, Personnel Policy Division
Classification Approved: 4/10/01 Barbara J. McWhirter, Assistant Director, Office of Workforce Transition
Richard Bell, Position Classification Specialist

Supervisory Certification: I certify that this is an accurate statement of the major duties and responsibilities of this position and its organizational relationships. and that the position is necessary to carry out government functions for which I am responsible. This certification is made with the knowledge that this information is to be used for statutory purposes relating

to appointment and payment of public funds. and that false or misleading statements may constitute violations of such statutes or their implementing regulations.

Signature and Title of Immediate Supervisor: Date:
All other levels of supervision which propose or approve official statements of duties and responsibilities are attesting to the same effect as the immediate supervisor.

This position description is intended for use without modification. Any changes (e.g., pen-and-ink) to the duty statements, factor level descriptions and benchmarks may jeopardize the classification allocation. Contact the National Classification Center for further assistance. The classification of this position may be appealed. Published standards or other information upon which the classification is based may be reviewed. Information may be obtained from the employee's immediate supervisor or the National Classification Center.

Page 2
Introduction
The incumbent functions as the Chief Planning and Analysis. Participates with the other third level management team that is accountable for all programs under the jurisdiction of the Director. The incumbent is responsible for high level, cross-functional projects, often of a confidential nature, and may be delegated the authority to implement, manage, and evaluate special programs and projects Serves as the service-center pathfinder and expert and will be called upon to participate in policy and decision making activities on behalf of the Director. In addition, the incumbent provides program direction to a diverse staff of program analysts.

Knowledge Required
Comprehensive knowledge of IRS mission, organization, policies, practices and procedures, including the program areas of the Director.

Extensive knowledge of the service center organization, policies, practices and procedures, functional programs, operations, and processes assigned to the Director.

In-depth knowledge of advanced management principles, theories, and practices and their applicability to IRS programs, functions, and objectives.

Expert knowledge of a wide range of analytical and evaluative methods and techniques to review and evaluation proposals, conduct studies, develop recommendations, and to analyze new or revised policies and procedures.

Ability to demonstrate initiative, originality, and creativity of a high order to render sound judgments on a wide range of complex management and policy issues to the Director and other top management officials.

Exceptional communication skills in order to effectively represent the Director or IRS in meetings, conferences, and presentations with higher-levels of executives within the agency, other government agencies, or with Members of Congress and/or their staffs.

I. Program Scope and Effect
Directs administrative activities. The incumbent's efforts and recommendations will often result in substantive program changes, procedural changes, revised program emphasis, or organizational changes that have or could have Service-wide significance. These efforts and recommendations often involve sensitive or controversial matters. The effectiveness of the incumbent directly

affects the functioning of the office, as well as the Director's proficiency to formulate policy and plan short-range and long-range objectives.

II. Organizational Setting

The position is directly accountable to a position at the SES level.

Page 3

III. Supervisory and Managerial Authority Exercised

Advises the Director and other top management officials. The incumbent directs key organizational programs which comprises significant resources and/or assets. As such is delegated managerial authority to set annual, multi-year, or similar long-range financial and budgetary plans. Determines objectives that need additional emphasis; determines best approach or solution for resolving budget shortages; and executes activities which support development of goals and objectives related to high levels of program management and development or formulation. Personally coordinates the recommendation of and/or solution to major projects or problems arising in connection with operating policies, programs, workloads, and objectives, etc. And coordinates with other managers and program officials.

Additionally, the incumbent:

> Plans work to be accomplished by subordinates, sets and adjusts short-term priorities, and prepares schedules for completion of work.
>
> Assigns work to subordinates based on priorities, selective consideration of the difficulty and requirements of assignments, and the capabilities of employees.

Evaluates work performance of subordinates and makes recommendations for outstanding performance recognition or disciplinary action.

Gives advice, counsel, or instruction to employees on both work and administrative matters.

Interviews candidates for positions in the team; recommends appointment, promotion, or reassignment to such positions.

Hears and resolves complaints for employees, referring group grievances and more serious unresolved complaints to a higher level supervisor of manager.

Effects minor disciplinary measures, such as warnings and reprimands, recommending other action in more serious cases.

Identifies developmental and training needs of employees, providing or arranging for needed development and training.

Initiates ways to improve production or increase the quality of the work directed.

Develops or participates in setting performance standards.

Approves and disapproves leave and recommends action in unusual cases.

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IV. Nature and Purpose of Contacts

Contacts are with IRS officials at all levels, both internally and externally, and with various groups and individuals outside the Service, officials of other federal

agencies, Members of Congress, state tax and law enforcement officials, and public information media. Contacts may take place in meetings, conferences, briefings, speeches, presentations, or oversight hearings and may require extemporaneous responses to unexpected or hostile questioning. Preparation typically includes briefing packages or similar presentation materials and may require extensive analytical input by the incumbent and subordinates.

Contacts are made to convey the Director's decisions, policies, and views; to ensure effective operations; to present recommendations and proposals; to negotiate results and resolve some issues; and to gain cooperation and coordinate a wide range of activities. The incumbent must use leadership and similar skills to obtain the desired results.

V. Difficulty of Typical Work Directed

The position accomplishes work through the administrative direction of others at least 25 percent of the time comparable to the GS-13 or higher level

VI. Other Conditions:

Coordination of the work of subordinates requires significant and extensive coordination and integration of a number of important program segments and projects involving work comparable in difficulty to the GS-13 or higher level. Supervision at this level involves major recommendations, which have a direct and substantial effect on the organization and projects managed. Makes recommendations in areas comparable to those involving significant internal and external program and policy issues affecting the overall organization, or restructuring, reorienting, recasting immediate and long rang goals, objectives, plans, and schedules to meet substantial changes in legislation, program authority, and/or funding.

GENERAL RESPONSIBILITIES

Fosters a high profile of the IRS Occupational Safety and Health Program by assuring employees' awareness of potential safety hazards, promptly reporting all injuries and affecting corrective actions necessary to eliminate safety and health hazards in the work area.

EQUAL EMPLOYMENT OPPORTUNITY

Practices sound position management in assigning work, combining/separating duties, establishing/abolishing positions and in fulfilling other personnel management duties and responsibilities.

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SECURITY AWARENESS

Participates in the administration of the Information Security Program to protect taxpayer data. Ensures a high degree of subordinate employee awareness of and compliance with the need to protect sensitive (e.g., taxpayer, personnel, procurement, etc.) data within or through systems under their control. Ensures the effective delivery of services targeted to assure all managers and employees are aware of their roles and responsibilities for the protection of sensitive data. Conducts training for employees and promotes security awareness to prevent any lapses.

Final Classification:

GS-343-15, Supervisory Program Analyst

RESPONSE: To request for the 2002 return purportedly made by the Secretary for the Petitioner:

Dear Mr. Selgas:

This is in response to your Freedom of Information Act (FOIA) request dated October 20. 2004. which was received by the Ogden Campus Disclosure Office and subsequently transferred and received in our Los Angeles Office on November 4,2004. In order to assist the Ogden Office, we have accepted the transfer of this case.

Our research shows that there is no copy of a Form 1040, U.S. Individual Income Tax Return, for the calendar ending December 31.2002, in the Substitute for Return Administrative file; therefore we have no documents responsive to your request.

Enclosed is Notice 393 that explains the exemptions and provides your appeal rights. Please be advised that a request under the Freedom of Information Act or Privacy Act in no way postpones or delays administrative examination, investigation or collect actions.

If you have any questions, please contact Carrie L. Kawahara, Senior Disclosure Specialist, Badge Number 95-00053, at 213-576-3635,300 N. Los Angeles Street, Mail Stop 1020. Los Angeles. CA 90012. Refer to Case Number 95-2005-00342.

Sincerely,

/s/ Susan J. Hernandez
Disclosure Officer
Los Angeles Office